

ID. Date of interview
date 12/02/20

ID. Time interview started
start 16:09:54

ID.end Completion date of interview
Date 12/02/20

ID.end Time interview ended
16:25:02

ID. Duration of interview
time 15.13

new case

ICO consultation on the draft right of access
guidance

Q1 Does the draft guidance cover the relevant issues about the right of access?

Yes

No

Unsure / don't know

If no or unsure/don't know, what other issues would you like to be covered in it?

Q2 Does the draft guidance contain the right level of detail?

- Yes
- No
- Unsure / don't know

If no or unsure/don't know, in what areas should there be more detail within the draft guidance?

We would welcome greater clarity / detail specific to the serious harm test, so that it can be applied consistently across organisations. In relation to restrictions and data from the principal reporter, do both elements need to be met to withhold? Or where they would have received the data from the principal reporter, can this be released without informing the principal reporter? Often the information from and to the reporter is evident throughout the record, and in this situation is consent from the principal reporter necessary? We would welcome greater clarity on these questions. Retention periods for redacted information provided. Is the retention schedule the same as the main case file or is there a time limit? Partial release. Where there are 10 + volumes each at 300 or more pages to review, information can be released in stages. Does this satisfy the one month or three-month deadline, or is it when the whole release is made? Cases where a request is received, and the person then advises due to personal circumstance they do not wish to receive the records until a date out with the one- or three-month deadline. What is the ICO's guidance in such situations?

Q3 Does the draft guidance contain enough examples?

- Yes
- No
- Unsure / don't know

If no or unsure/don't know, please provide any examples that think should be included in the draft guidance.

The following is an example of good practice where vulnerability was identified. The person reached out to a previous social worker to ask about accessing records. The person was a closed social work case. The Council offered the opportunity for support from the trusted worker. The person was fully informed and aware of what was in her records. Support was provided before, during and after the right to access records journey. The file was not shared with the person, she opted to stop the process as it was too difficult for her and recognised the impact accessing the record was having. The feedback given was that had support not been offered and the record received, the person would have likely relapsed to using substances or other unhelpful coping strategies.

Q4 We have found that data protection professionals often struggle with applying and defining 'manifestly unfounded or excessive' subject access requests. We would like to include a wide range of examples from a variety of sectors to help you. Please provide some examples of manifestly unfounded and excessive requests below (if applicable).

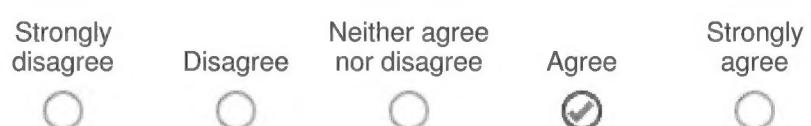
Q5 On a scale of 1-5 how useful is the draft guidance?



Q6 Why have you given this score?

The guidance, whilst helpful, does not truly reflect the complexity of some right to access subject access requests. From lessons learned and feedback from care experienced people, there is can be a heightened vulnerability when people receive their records. If there is no support provided around the person, the release of information can potentially puts people at a higher risk of causing harm to themselves or returning to historic behavioural patterns. (If the individual has caring responsibilities, this could mean harm to others too.) Counselling and support prior to receiving records is critical. The one-month target, with potential for two-month extension for complex cases, is challenging when people are accessing records, especially social work records, that are by their nature, sensitive and complex.

Q7 To what extent do you agree that the draft guidance is clear and easy to understand?



Q8 Please provide any further comments or suggestions you may have about the draft guidance.

Q9 Are you answering as:

- An individual acting in a private capacity (eg someone providing their views as a member of the public)
- An individual acting in a professional capacity
- On behalf of an organisation
- Other

Please specify the name of your organisation:

Social Work Scotland

What sector are you from:

Social Work

Q10 How did you find out about this survey?

- ICO Twitter account
- ICO Facebook account
- ICO LinkedIn account
- ICO website
- ICO newsletter
- ICO staff member
- Colleague
- Personal/work Twitter account
- Personal/work Facebook account
- Personal/work LinkedIn account
- Other

If other please specify: